

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



September 30, 2003

Agenda ID #2825
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION 02-05-022

This is the proposed decision of Administrative Law Judge (ALJ) Galvin, previously designated as the principal hearing officer in this proceeding. It will be on the Commission's agenda at the next regular meeting, which is scheduled for October 30, 2003. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Pursuant to Resolution ALJ-180 a Ratesetting Deliberative Meeting to consider this matter may be held upon the request of any Commissioner. If that occurs, the Commission will prepare and mail an agenda for the Ratesetting Deliberative Meeting 10 days before hand, and will advise the parties of this fact, and of the related ex parte communications prohibition period.

The Commission may act at the regular meeting on October 30, 2003, or it may postpone action until later. If action is postponed, the Commission will announce whether and when there will be a further prohibition on communications.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ Angela K. Minkin
Angela K. Minkin, Chief
Administrative Law Judge

ANG: avs

Decision **PROPOSED DECISION OF ALJ GALVIN** (Mailed 9/30/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company
for Authority to Establish Its Authorized rates of
return on Common Equity for Electric Utility
Operations and Gas Distribution for Test
Year 2003. (U 39 M)

Application 02-05-022
(Filed May 8, 2002)

(See Appendix A for Appearances)

FINAL OPINION**I. Summary**

This decision closes this proceeding and requires Pacific Gas and Electric Company (PG&E) to file a new application to true up its capital structure resulting from its implementation of a financing plan approved by the Bankruptcy Court. That application shall also include testimony on its revised capital structure, long-term debt and preferred stock cost, risks, and return on equity.

II. Background

Decision (D.) 02-11-027, dated November 7, 2002, established an interim return on common equity of 11.22% and return on rate base of 9.24% for PG&E 2003 test year. Those returns were authorized on an interim basis because PG&E fully expected to emerge from Chapter 11 bankruptcy at the beginning of its 2003 test year, making its then current capital structure and return on equity obsolete. D.02-11-027 also requires PG&E to update its capital structure, long-term debt and preferred stock cost, risks, and return on equity within 30 days after a

financing plan approved by the Bankruptcy Court has been implemented by PG&E. Subsequently, D.03-09-020 dated September 21, 2003 deferred interest rate hedging costs to the post-bankruptcy true-up.

III. Discussion

On June 23, 2003, PG&E entered into a proposed settlement agreement with the Commission on a reorganization and financing plan. That proposed settlement agreement is being addressed in the Commission's Investigation 02-04-026, filed on April 22, 2002. Because a decision on the proposed settlement agreement is not scheduled until after January of 2004, PG&E will not be able to comply with the D.01-11-027 update requirement until after that date.

This proceeding being a ratesetting proceeding requires a final decision to be issued no later than November 8, 2003, 18 months after the date this application was filed. The Commission adopted this time period in D.97-12-043 to comply with Senate Bill 960 (Leonard, Ch. 96-0856), effective January 1, 1998.

Subsequently, on September 20, 2003, the Governor signed Assembly Bill (AB) 1735 requiring, among other matters, ratesetting proceedings be completed no later than 18 months after a Scoping Memo has been issued. If this bill had been in effect prior to PG&E filing its application, this proceeding should be closed no later than January 20, 2004, 18-months after the July 20, 2002 Scoping Memo.

AB 1735 also provides for a maximum 60-day extension if the commission makes a written determination in the Scoping Memo that the 18-month time period cannot be met. However, it precludes any single order extending the completion date more than 60 days beyond the 18-month period. This bill,

adding Sections 1701.5 and 1701.6 to the Public Utilities Code chaptered on September 22, 2003 will become effective on January 1, 2004.

There is no need to keep this proceeding open beyond the 18-month period so that PG&E may comply with the interim decision in this proceeding. The same result can be attained by requiring PG&E to file a new application for this purpose. Therefore, PG&E should file a new application and this proceeding should be closed.

IV. Comments on Proposed Decision

The principal hearing officer's proposed decision on this matter was filed and served pursuant to Section 311(d) and Rule 77.1 of the Commission's Rules of Practice and Procedure.

V. Assignment of Proceeding

Geoffrey F. Brown and Michael R. Peevey are the Assigned Commissioners and Michael J. Galvin is the assigned Administrative Law Judge in this proceeding

Findings of Fact

1. D.02-11-027 established an interim return on common equity and return on rate base for PG&E.
2. This proceeding remains open for PG&E to update its capital structure, long-term debt and preferred stock, risks, and return on equity within 30 days after a financing plan approved by the Bankruptcy Court has been implemented by PG&E.
3. A decision on the proposed settlement agreement PG&E and the Commission entered into regarding reorganization and financing plan is not scheduled until after January of 2004.

4. D.97-12-043 requires ratesetting proceedings, such as this application, to be completed within 18-months after the date an application is filed.

5. AB 1735 requires ratesetting proceedings to be completed no later than 18 months after a Scoping Memo has been issued.

6. Under AB 1735, this proceeding must be completed no later than January 20, 2004, 18 months after the July 20, 2002 Scoping Memo.

7. This proceeding need not remain open for PG&E to update its update its capital structure, long-term debt and preferred stock cost, risks, and return on equity after a financing plan approved by the Bankruptcy Court has been implemented by PG&E.

Conclusion of Law

There is no need to keep this proceeding open indefinitely.

FINAL ORDER

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) shall true up its return on equity with changes in its capital structure, long-term debt and preferred stock costs, and risk that results from it implementing the financing contemplated by a Chapter 11 plan approved by the Bankruptcy Court and address the costs for interest rate hedges deferred by Decision 03-09-020. Within 30 days after completing any such financing, PG&E shall file a new application for authority to true up its capital structure and return on equity. That application shall include PG&E testimony on its revised capital structure, long-term debt and preferred stock cost, risks, and return on equity.

2. Application 02-05-022 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

**APPENDIX A
APPEARANCES**

Applicants: Christopher J. Warner, Andrew Niven, and Shirley Woo, Attorneys at Law, for Pacific Gas and Electric Company; Robert B. Keeler and Frank H. Cooley, Attorneys at Law, Paul T. Hunt and Paula Arriola, for Southern California Edison Company; David Norris, Attorney at Law, for Sierra Pacific Power Company; and, Sempra Energy, by Lisa Urich, Attorney at Law, and Mark W. Ward, for San Diego Gas & Electric Company.

Interested Parties: James Weil, for Aglet Consumer Alliance; Department of the Navy, by John M. Cummins, Attorney at Law, and John B. Legler, for Federal Executive Agencies; and, Marcel Hawiger, Attorney at Law, for The Utility Reform Network.

Office of Ratepayer Advocates: Robert C. Cagen and Paul Angelopulo, Attorneys at Law.

(END OF APPENDIX A)